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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
**NOV 21 2017**  
SEAN F. McAVOY, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARK WELLINGTON GILBERT,

Defendant.

**4:17-CR-6045-SAB**  
**INDICTMENT**

Vio: 18 U.S.C. § 1344(2)  
Bank Fraud

18 U.S.C. § 982  
Notice of Forfeiture  
Allegations

The Grand Jury Charges:

**BANK FRAUD**

**I. Scheme and Artifice to Defraud:**

Beginning on an unknown date, but at least by on or about May 7, 2014, and continuing to on or about November 21, 2017, in the Eastern District of Washington and elsewhere, Defendant MARK WELLINGTON GILBERT, did knowingly devise a scheme and artifice to defraud Hawaii Community Federal Credit Union, a federally insured financial institution, and to obtain monies, funds, credits, and other property from said financial institution by means of false and fraudulent pretenses, representations, and promises, to wit, by submitting an application for a mortgage in the amount of \$745,000 to purchase

1 real property located at 73-4464 Hane Street, Kailua Kona, Hawaii (the “Hane  
2 Street Property”) in the name of Defendant MARK WELLINGTON  
3 GILBERT’s parents, Bruce E. Gilbert and Priscilla J. Gilbert, with materially  
4 false and fraudulent pretenses, representations, and promises about the source of  
5 the funds for the down payment on the Hane Street Property; the actual  
6 purchasers of the Hane Street Property; and the actual intended occupants of the  
7 Hane Street Property and that resulted Hawaii Community Federal Credit Union  
8 funding a mortgage in the amount of \$745,000 to purchase the Hane Street  
9 Property; all in violation of 18 U.S.C. § 1344(2).

## 10 **II. Execution of the Scheme and Artifice:**

11 On or about June 30, 2014, the Hane Street Property was officially  
12 purchased by Bruce E. Gilbert and Priscilla J. Gilbert through the Bruce E.  
13 Gilbert and Priscilla J. Gilbert 1998 Trust (the “Bruce and Priscilla Gilbert  
14 Trust”). Defendant MARK WELLINGTON GILBERT employed C.W., a  
15 realtor in Hawaii, to handle the purchase. Defendant MARK WELLINGTON  
16 GILBERT sought financing for the purchase of the Hane Street Property  
17 through Hawaii Community Federal Credit Union. Hawaii Community Federal  
18 Credit Union is a financial institution, the deposits of which are insured by the  
19 National Credit Union Administration, charter number 1719.

20 On or about May 7, 2014, Defendant MARK WELLINGTON GILBERT  
21 contacted L.D. at Hawaii Community Federal Credit Union. Defendant MARK  
22 WELLINGTON GILBERT inquired about obtaining financing for a house in  
23 Hawaii and stated he was acting on behalf of his parents, Bruce E. Gilbert and  
24 Priscilla J. Gilbert. L.D. almost entirely dealt with Defendant MARK  
25 WELLINGTON GILBERT to handle the transaction. L.D. never met the  
26 purported borrowers, Bruce E. Gilbert and Priscilla J. Gilbert, in person.  
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1 On or about June 20, 2014, Defendant MARK WELLINGTON  
2 GILBERT submitted a Uniform Residential Loan Application (the “Loan  
3 Application”) listing Bruce E. Gilbert and Priscilla J. Gilbert as the borrowers  
4 for the purchase of the Hane Street Property. Through the Loan Application, the  
5 purported borrowers sought a \$745,000 conventional mortgage to purchase the  
6 Hane Street Property. Defendant MARK WELLINGTON GILBERT, through  
7 the Loan Application, represented to L.D. and Hawaii Community Federal  
8 Credit Union that the source of the down payment would be Bruce E. Gilbert’s  
9 account through G A Group, 2965 East Isaacs Ave, Walla Walla, Washington  
10 with a balance of \$1,211,918.60.

11 During the course of applying for and obtaining the loan for the Hane  
12 Street Property, Defendant MARK WELLINGTON GILBERT made several  
13 false statements to Hawaii Community Federal Credit Union through the Loan  
14 Application, including, but not limited to the following: (a) that Bruce E. Gilbert  
15 and Priscilla J. Gilbert were the actual purchasers of the Hane Street Property;  
16 (b) that Bruce E. Gilbert had a G A Group, National Automotive Dealers  
17 Association Retirement (“NADART”) administered retirement account with a  
18 balance over \$1.2 million which would be the source of the down payment; and  
19 (c) that Bruce E. Gilbert and Priscilla J. Gilbert would make the Hane Street  
20 Property their primary residence.

21 On or about May 17, 2014, Defendant MARK WELLINGTON  
22 GILBERT, from Walla Walla, Washington, emailed L.D. at Hawaii Community  
23 Federal Credit Union purported NADART retirement statements bearing Bruce  
24 E. Gilbert’s name that purported to demonstrate that Bruce E. Gilbert  
25 participated in the NADART G A Group plan. The NADART statements were  
26 for the quarters ending December 31, 2013 and March 31, 2014. The NADART  
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1 statements indicated the account had ending balances of \$1,208,245.52 and  
2 \$1,211,918.60 for each quarter, respectively. On the Loan Application  
3 purportedly signed by Bruce E. Gilbert and Priscilla J. Gilbert, Section IV,  
4 titled, "Assets and Liabilities, of the Loan Application , included an account  
5 described as G A Group, "Acct. no. XX-9897" with a purported balance of  
6 \$1,211,918.60.

7 Defendant MARK WELLINGTON GILBERT knowingly and  
8 fraudulently sent the fabricated NADART retirement statements in the name of  
9 Bruce E. Gilbert to Hawaii Community Federal Credit Union in order to induce  
10 Hawaii Community Federal Credit Union to fund the mortgage to Bruce E.  
11 Gilbert and Priscilla J. Gilbert for the Hane Street Property. In fact, the  
12 statements bearing Bruce E. Gilbert's name, which were sent by MARK  
13 WELLINGTON GILBERT to Hawaii Community Federal Credit Union, were  
14 not authentic and no NADART retirement account for Bruce E. Gilbert ever  
15 existed and did not form the basis for any down payment for the Hane Street  
16 Property. Rather, Defendant MARK WELLINGTON GILBERT was the person  
17 providing the down payment for the Hawaii house and Defendant MARK  
18 WELLINGTON GILBERT concealed that fact in order to avoid disclosing the  
19 Hane Street Property as an asset in a bankruptcy proceeding in the Eastern  
20 District of Washington. Additionally, Defendant MARK WELLINGTON  
21 GILBERT and his family, not Bruce E. Gilbert and Priscilla J. Gilbert, intended  
22 to reside at the Hane Street Property at the time Defendant MARK  
23 WELLINGTON GILBERT submitted the Loan Application to Hawaii  
24 Community Federal Credit Union.

### III. Materiality:

Each false and fraudulent pretense, representation, and promise made by Defendant MARK WELLINGTON GILBERT during the execution of the scheme and artifice to defraud described above, specifically: (a) that Bruce E. Gilbert and Priscilla J. Gilbert were the actual purchasers of the Hane Street Property; (b) that Bruce E. Gilbert had a G A Group, NADART administered retirement account with a balance over \$1.2 million which would be the source of the down payment; and (c) that Bruce E. Gilbert and Priscilla J. Gilbert would make the Hane Street Property their primary residence, were relied upon by the Hawaii Community Federal Credit Union when the Hawaii Community Federal Credit Union approved the \$745,000 mortgage loan in the name of Bruce E. Gilbert and Priscilla J. Gilbert. Hawaii Community Federal Credit Union would not have approved the \$745,000 mortgage loan and funded the \$745,000 mortgage for the Hane Street Property if Hawaii Community Federal Credit Union knew the aforementioned false and fraudulent pretenses, representations, and promises made by Defendant MARK WELLINGTON GILBERT in the Loan Application for the Hane Street Property were false, all of which is in violation of 18 U.S.C. § 1344(2).

### **NOTICE OF CRIMINAL FORFEITURE ALLEGATIONS**

The allegations contained in this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to 18 U.S.C. § 982(a)(2)(A).

Pursuant to 18 U.S.C. § 982(a)(2)(A), upon conviction of the offense[s] in violation of 18 U.S.C. § 1344 as set forth in this Indictment, the Defendant, MARK WELLINGTON GILBERT, shall forfeit to the United States of

1 America, any property constituting, or derived from, proceeds obtained, directly  
2 or indirectly, as a result of such violation(s). The property to be forfeited  
3 includes, but is not limited to, the following:

4 REAL PROPERTY

5 Real property known as 73-4464 Hane Street, Kailua Kona,  
6 Hawaii, Parcel #: 730550360000/Tax Map Key: (3)7-3-055-036,  
7 legally described as follows:

8 All that certain parcel of land situate at Ooma 2<sup>nd</sup>, District of  
9 North Kona, Island and County of Hawaii, State of Hawaii,  
10 described as follows:

11 Lot 36, area 1.000 acre, more or less, as delineated on the map  
12 entitled "KONA HILLS ESTATES, SUBDIVISION, UNIT II",  
13 which said map was filed in the Bureau of Conveyances of the  
State of Hawaii as File Plan No. 2169.

14 Together with all appurtenances, fixtures, attachment and  
15 improvements thereto and thereupon.

16 Subject to all easements, restrictions, reservations and covenants  
17 of record.

18 MONEY JUDGMENT

19 A sum of money in United States currency representing the  
20 amount of proceeds obtained as a result of the bank fraud  
21 offense(s).

22 If any of the property described above, as a result of any act or omission  
23 of the defendant[s]:

- 24 a. cannot be located upon the exercise of due diligence;  
25 b. has been transferred or sold to, or deposited with, a third party;  
26 c. has been placed beyond the jurisdiction of the court;  
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- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1) and 28 U.S.C. § 2461(c). All pursuant to 18 U.S.C. § 982(a)(2)(A) and 28 U.S.C. § 2461(c).

DATED: November 21, 2017

A TRUE BILL

For person

  
JOSEPH H. HARRINGTON  
Acting United States Attorney

  
James A. Goeke  
Assistant United States Attorney